

FILED

JAN 28 2013

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

WARREN WARCLUB,)	CV 12-93-H-DLC
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MIKE FERRITER, Director, Dept. of)	
Corrections MT; ELIZABETH)	
RANTZ, MD, Medical Director for)	
Dept. of Corrections; and FRANK)	
RAISER, Contract Surgeon Dept. of)	
Corrections,)	
)	
Defendants.)	
)	

United States Magistrate Judge Keith Strong entered Findings and Recommendations in this matter on November 30, 2012, recommending that Plaintiff Warren Warclub's motion for summary judgment be denied without prejudice because it is premature. Because Warclub did not file objections, Judge Strong's Findings and Recommendations are reviewed for clear error. 28 U.S.C. §

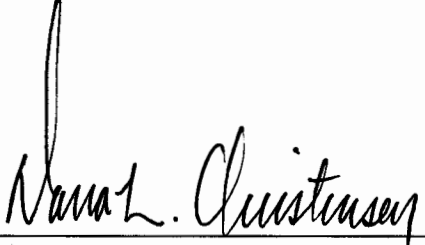
636(b)(1).

Judge Strong found that Warclub's allegations concerning events that occurred prior to May 23, 2009 were barred by the statute of limitations. As to later events, Judge Strong found that Warclub failed to allege sufficient facts to state a deliberate indifference claim. However, he granted Warclub leave to file an amended complaint, which Warclub has since done. Because the original Complaint did not state a claim upon which relief could be granted, Warclub's motion for summary judgment was premature. There is no clear error in these findings.

Accordingly, IT IS ORDERED that Judge Strong's Findings and Recommendations (doc. 7) are ADOPTED in full.

IT IS FURTHER ORDERED that Warclub's motion for summary judgment (doc. 4) is DENIED without prejudice.

Dated this 28th day of January 2013.



Dana L. Christensen, District Judge
United States District Court